PAUL, WEISS, RIFKIND, WHARTON & GARRISON

1615 L STREET, NW
TELEPHONE (202) 223-7300

WASHINGTON, DC 20036-5694
FACSIMILE (202) 223-7420

WRITER'S DIRECT DIAL NUMBER

WRITER'S DIRECT E-MAIL ADDRESS

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-6064
TELEPHONE (212) 373-3000
FACSIMILE (212) 757-3990

62, RUE DU FAUBOURG SAINT-HONORÉ
75008 PARIS, FRANCE
TELEPHONE (33 1) 53 43 14 14
FACSIMILE (33 1) 53 43 00 23

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100, JAPAN
TELEPHONE (81-3) 3597-8101
FACSIMILE (81-3) 3597-8120

SUITE 1910 SCITECH TOWER
22 JIANGUOMENWAI DAJIE
BEIJING, 100004
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6512-3628-30
FACSIMILE (86-10) 6512-3631

13TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2536-9933
FACSIMILE (852) 2536-9622

February 7, 1997

BY HAND

Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: PR Docket No. 92-235

Public Notice, DA 97-206,
January 28, 1997

Dear Mr. Secretary:

This letter is written on behalf of SpaceLabs Medical, Inc. ("SpaceLabs"), in response to the above-referenced Public Notice, in which comments are requested on the substance of an ex parte filing submitted by the Industrial Telecommunications Association, Inc. ("ITA") on January 21, 1997 (the "ITA Letter"), in the Commission's "Refarming" proceeding (PR Docket No. 92-235).

As the Commission is aware, SpaceLabs is a leading manufacturer of low power biomedical telemetry devices which operate on the offset channels in the 450-470 MHz band. A detailed description of these devices and their vital use of the subject spectrum is set out in SpaceLabs' initial comments in this proceeding.[1/] As SpaceLabs previously has demonstrated,[2/] certain aspects of the plan adopted by the Commission in the Report and Order [3/] in this proceeding pose a direct and substantial threat to the continued operation of low power biomedical telemetry in the 450-470 MHz band. Adoption of ITA's proposed frequency plan -- without significant modification to accommodate biomedical telemetry -- would only compound the problem.

1/ See generally SpaceLabs' Comments (filed May 28, 1993).

2/ See, e.g., SpaceLabs' Petition for Reconsideration and/or Clarification (filed August 18, 1995); SpaceLabs' Comments (filed November 20, 1995).

3/ 10 FCC Rcd 10,076 (1995), reconsideration, FCC 96-492, released December 30, 1996.

Co-4

ITA claims that it has, inter alia, "develop[ed] detailed frequency utilization plans for all of the refarmed spectrum."[4/] ITA's plan, however, completely ignores low power biomedical telemetry. Indeed, ITA's sole discussion of what it considers to be a "low power" use of the subject spectrum relates to 5 watt ERP operations at, e.g., "manufacturing plants and in campus environments,"[5/] and equally powerful radio systems operated by, e.g., "electricians and plumbers."[6/] No mention is made of the tens of thousands of 5 mW ERP biomedical telemetry systems presently in operation in every major hospital in the country, providing full-time continuous monitoring of cardiac patients' vital signs.

While ITA clearly has devoted considerable effort to addressing the needs of various high power users of the 450-470 MHz band, it has totally ignored the needs of a critical medical service, one which both SpaceLabs and Hewlett Packard Medical Products Group ("HP") repeatedly have called to the Commission's -- and the high power user community's -- attention throughout the Refarming proceeding. This represents a fundamental flaw in ITA's proposal.[7/]

As it has throughout the Refarming proceeding, SpaceLabs stands ready to work with the high power industry to devise a plan that will advance the interests of both the medical community and the more traditional user groups. Acting in concert with HP, SpaceLabs has previously submitted to both the Commission and various industry representatives the outline of such a plan (for convenience, a copy of that outline is attached hereto). It is essential that the Commission take into account the needs of this vital medical service in its consideration of ITA's proposal.

4/ ITA Letter at 1.

5/ Id. at 6-7.

6/ Id. at 7.

7/ Pursuant to the Commission's request in the Further Notice of Proposed Rulemaking that was released in conjunction with the Report and Order, SpaceLabs and HP attended various industry meetings that were intended to examine the sort of service consolidation issues addressed in the ITA Letter. At these meetings, SpaceLabs and HP proposed solutions that would permit low power medical telemetry to continue to co-exist in the 450-470 MHz band, while freeing additional channel capacity for the sort of high power use of interest to ITA. These suggestions were rebuffed at the time as "premature"; until the band consolidations problem could be resolved, the high power community believed that it would be pointless to consider the sorts of issues being raised by SpaceLabs and HP.

If there are any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

Diane C. Gaylor

Jeffrey H. Olson
Diane C. Gaylor
Attorneys for
SpaceLabs Medical, Inc.

Enclosure

cc: Ira Keltz
Mark E. Crosby
Henry Goldberg, Esq.
International Transcription Services

Hewlett-Packard Company
Ex Parte Presentation
September 29, 1995
PR Docket 92-235

Outline of 450-470 MHz Proposal for Medical Telemetry

The following proposal is based on several basic principles:

- The number of usable channels available for medical telemetry should not be reduced. Reducing the number of channels available for medical telemetry would force hospitals to cut back on the number of telemetry beds that they currently use to monitor at-risk cardiac patients. Without a sufficient number of telemetry channels, hospitals would either have to cable these patients directly to monitors, reducing the opportunity for therapeutic exercise, or forego monitoring them at all. Furthermore, a reduction would be inconsistent with the Commission's position that refarming is designed to increase use of the spectrum, not cut back on current use.

- Because the number of telemetry channels in use varies greatly from hospital to hospital, a two-tier approach would allow for efficient and flexible spectral use. A small number of dedicated very-low-power channels would accommodate most medical telemetry and other very-low-power licensees. With this dedicated area, larger hospitals and medical centers would require fewer additional channels, so more channels could be operated at higher power throughout the 450-470 MHz band, while still giving reasonable assurance of the availability of an adequate number of channels that are usable by medical telemetry on a secondary basis to supplement the channels available in the dedicated very-low-power area.

Elements of the Proposal

- Maintain the low-power status of offset channels where medical telemetry now operates, including prohibition on licensing the adjacent 6.25 kHz channels, until the following steps are completed.

- One-for-one swap of existing low-power offset channels for new channels in a dedicated contiguous 2.5 MHz very-low-power region (<120 mW, with limitations on non-medical telemetry use within hospitals) as quickly as space within the very-low-power region is made available. Note that the entire region need not be

cleared of all >120 mW licensees before the swapping could begin: a new channel could be swapped in provided that no >120 mW licensee was closer than 25 kHz. HP and SpaceLabs would submit the least frequently used channels to the frequency coordinator for swapping.

- After the very-low-power region is established, the remaining offset channels still used for telemetry could be relicensed for high-power use and medical telemetry would be permitted to use all channels in the 450-470 MHz band on a secondary basis.